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FISCAL IMPACT STATEMENT

LS 6787

BILL NUMBER: HB 1215

NOTE PREPARED: Dec 17, 2004

BILL AMENDED:

SUBJECT: Review of Privatization Savings.

FIRST AUTHOR: Rep. Dickinson

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill contains the following provisions.

Provision A - This bill requires the state's procurement practices to be supportive of retention and creation of jobs in Indiana.

Provision B - This bill also provides that a contract or solicitation for a contract to privatize any of the functions performed by a governmental body's employees resulting in the layoff or dismissal of any employees must:

- (1) require an offeror to provide verifiable evidence that the cost of the contract will be less than the cost of having the functions performed by the governmental body's employees;
- (2) specify that the governmental body may not pay the contractor more than the cost the governmental body determines the governmental body would incur to perform the functions using its employees;
- (3) require the governmental body to provide to an offeror an estimate of the cost of having the functions performed by the governmental body's employees; and
- (4) contain a statement that the governmental body may pursue certain remedies if the contractor fails to comply with the contract.

Provision C - The bill permits the governmental body's employees to submit an offer to perform the functions, and provides an absolute price preference for the employees if the bid they offer is below the current cost of the function.

This bill also excludes from these requirements purchases from qualified nonprofit agencies for persons with severe disabilities.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Provision A* - This bill requires the state's procurement practices to be supportive of retention and creation of jobs in Indiana. The impact of this provision on state procurement costs is unknown and will subject to the administrative actions of the Department of Administration.

Provision B - This provision could have both positive and negative impacts on the state's expenditures for personnel and service contracts.

This bill could reduce state agencies' expenditures if performing the required cost analysis helps state agencies make more efficient choices. For example, state expenditures may be reduced if, upon performing the cost analysis, a state agency that was to privatize services finds that state employees are able to perform the services for less than any of the bids submitted by private contractors. Additional cost savings may result if, upon seeing the results of the agency's cost analysis, potential contractors offer to perform the function for a lower amount than what they would have bid had the cost analysis not been known.

Despite the potential for additional savings, the bill also has the potential to increase agencies' costs. The bill requires state agencies that seek to privatize a service to perform a cost analysis to determine how much that function would cost if the state agency and its employees, rather than the contracted entity, continued to perform the service. Performing this analysis could potentially increase state agencies' administrative costs. Additionally, the bill may encourage contractors who wish to contract with the state to increase bids to cover any additional cost incurred by conforming to the changes in the solicitation process proposed in this bill and to mitigate the risk of underbidding.

Provision C - Any potential for savings will be mitigated by the absolute price preference for the government body's employees if the bid they offer is below the current cost of the function. This provision effectively requires that any bid by the state agencies' employees that is below the current cost of the function must be accepted. For example, if a cost analysis by the state agency states that the agency's employees can perform the service for \$1 M, and the agency's employees offer a bid of \$990,000, the bid must be accepted. The employees' bid must be accepted even if there is a bid from a private contractor of \$980,000.

Explanation of State Revenues:

Explanation of Local Expenditures: The costs and savings described above for state agencies would also apply to the contracting of functions by local entities.

Explanation of Local Revenues:

State Agencies Affected: Department of Administration; other agencies that may contract for functions currently performed by governmental employees.

Local Agencies Affected: Entities seeking to contract for functions currently performed by governmental employees.

Information Sources:

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